

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alex Tuminello	Team: Team # 3	CCRB Case #: 201403847	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 04/22/2014 3:52 PM	Location of Incident: Pitkin Avenue and Amboy Street and the 73rd Precinct stationhouse.	Precinct: 73	18 Mo. SOL 10/22/2015	EO SOL 10/22/2015	
Date/Time CV Reported Tue, 04/22/2014 4:18 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 04/22/2014 4:18 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Paul Brown	28748	927972	073 PCT
2. SGT Christophe Muller	04155	925795	073 PCT
3. POM Derek Sambolin	06906	943771	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Derek Sambolin	Abuse: At the intersection of Pitkin Avenue and Amboy Street in Brooklyn, PO Derek Sambolin refused to provide his name and shield number to § 87(2)(b)	
B.POM Derek Sambolin	Abuse: At the intersection of Pitkin Avenue and Amboy Street in Brooklyn, PO Derek Sambolin frisked § 87(2)(b)	
C.POM Derek Sambolin	Abuse: At the intersection of Pitkin Avenue and Amboy Street in Brooklyn, PO Derek Sambolin searched § 87(2)(b)	
D.SGT Christophe Muller	Abuse: At the intersection of Pitkin Avenue and Amboy Street in Brooklyn. Sgt. Christopher Muller frisked § 87(2)(b)	
E.SGT Christophe Muller	Abuse: At the intersection of Pitkin Avenue and Amboy Street in Brooklyn, Sgt. Christopher Muller searched § 87(2)(b)	
F.SGT Christophe Muller	Abuse: At the intersection of Pitkin Avenue and Amboy Street in Brooklyn, Sgt. Christopher Muller refused to provide his name and shield number to § 87(2)(b)	
G.POM Derek Sambolin	Abuse: At the intersection of Pitkin Avenue and Amboy Street in Brooklyn, PO Derek Sambolin searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
H.POM Paul Brown	Abuse: At the 73rd Precinct stationhouse, PO Paul Brown did not process § 87(2)(b)'s complaint regarding officers.	

Case Summary

On April 22, 2014, at approximately 3:52 p.m., PO Derek Sambolin and Sgt. Christopher Muller of the 73rd Precinct stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants. During his interaction with officers, PO Sambolin explained to § 87(2)(b) that he was pulled over because his right brake light was out. § 87(2)(b) admitted to the CCRB that his brake light was in fact broken when he was stopped by the officers. After running § 87(2)(b)'s information, PO Sambolin asked § 87(2)(b) to step out of the vehicle. § 87(2)(b) stated, "No problem, I just need your name and badge after" (**Allegation A**). PO Sambolin then frisked over § 87(2)(b)'s body and stuck his hands inside his front and back jean's pockets (**Allegations B and C**). PO Sambolin then continued frisking along § 87(2)(b)'s thighs and down each leg to his ankles (**within Allegation B**). The frisk and search lasted approximately less than a minute. While standing on the driver's side of the vehicle, § 87(2)(b) observed Sgt. Muller frisking and searching § 87(2)(b) (**Allegations D and E**). § 87(2)(b) was then instructed to walk to the back of the vehicle. While at the back of the vehicle, a uniformed male and female officer arrived at the location. These officers were not identified by the investigation. At this time, § 87(2)(b) requested both of the officers' names and badges (**within Allegation A and Allegation F**). PO Sambolin then entered § 87(2)(b)'s vehicle through the driver's side door. He then searched under his front seats and opened and looked inside the glove compartment. After searching the passenger side of the vehicle for approximately two to three minutes, PO Sambolin entered the driver's side of the vehicle. He did not see where he searched because Sgt. Muller told him to turn around (**Allegation G**). § 87(2)(b) then requested to speak to the sergeant. Sgt. Muller identified himself as the sergeant and § 87(2)(b) asked him for his name. PO Sambolin then yelled a name that sounded like "Mahoney or Mofoni." After PO Sambolin completed the search of the vehicle § 87(2)(b) requested his name and shield number (**Allegation F**). PO Sambolin then walked back towards the vehicle with Sgt. Muller. § 87(2)(b) then stated, "I asked for your name and badge." § 87(2)(b) stated that Sgt. Muller once again stated a name that sounded like "Mahoney or Mofoni" and PO Sambolin did not state anything (**within Allegations A and F**). § 87(2)(b) then drove to the 73rd Precinct stationhouse and spoke to an officer that he described as a dark-skinned black male, stocky build, bald, brown eyes, in his mid-forties and in uniform. This officer was identified as PO Paul Brown of the 73rd Precinct. § 87(2)(b) stated to PO Brown, "I want to file a complaint but I don't know the names of the officers, how do I go about finding their names?" PO Brown stated, "All you can do is call the complaint number" (**Allegation H**).

Mediation, Civil and Criminal Histories

- Mediation was presented to § 87(2)(b) in regards to this incident but he rejected § 87(2)(b)
- On January 29, 2015, a Notice of Claim inquiry was sent to the NYC Comptroller's Office and a response will be added to the case file upon its receipt (Encl. 21L5).
- § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) This is the first complaint filed on behalf of § 87(2)(b) (Encl. 6A-6B).
- Sgt. Muller has been a member of the NYPD for 14 years, has had 26 previous CCRB allegations involving 10 cases with substantiated allegations in only two cases. Sgt. Muller received charges in regards to both incidents, however, there was no disciplinary action taken. § 87(2)(g)
- PO Sambolin has been a member of the NYPD for 8 years and has had 32 previous CCRB allegations involving 16 cases with substantiated allegations in one case. PO Sambolin pled guilty and was docked 25 vacation days. § 87(2)(g)
- PO Brown has been a member of the NYPD for 13 years and no prior substantiated allegations. § 87(2)(g)

Potential Issues

- On May 2, 2014, § 87(2)(b) provided a brief phone statement to the CCRB (Encl. 9A).
- On May 5, 2014, § 87(2)(b) missed his scheduled CCRB appointment on May 5, 2014 and a missed appointment letter was mailed to him via USPS in regards. Between May 6, 2014 and May 15, 2014, § 87(2)(b) was contacted four times and a voicemail was left each time in regards. § 87(2)(b) never responded to any of the voicemails and the investigation was unable to acquire a formal statement from him.

NYPD Documents

- On April 22, 2014, at approximately 3:52 p.m., Sgt. Muller conducted an MISD check in regards to § 87(2)(b) (Encl. 17A-17K).
- The Tour 2 Roll Call from the 73rd Precinct on April 22, 2014, indicates that Sgt. Muller was working as the SET Sergeant. PO Sambolin was working with the SET Team. (Encl. 19A-19S).
- The Tour 3 Roll Call from the 73rd Precinct indicates that PO Brown was assigned to stationhouse security (Encl. 18A-18N).

Findings and Recommendations

Allegations Not Pleaded

- **Vehicle Stop:** § 87(2)(b) stated during his CCRB interview that on the date of the incident, his car had a broken right brake light. Both PO Sambolin and Sgt. Muller corroborated that they pulled over § 87(2)(b) for a broken brake light. § 87(2)(g)

Explanation of Subject Officer Identification

While Sgt. Muller and PO Sambolin did not recall § 87(2)(b) from his CCRB photograph, both of their memo books show that a car stop was conducted in regards to a broken brake light at the incident location. Their memo books also corroborate the time which was provided by § 87(2)(b) The MISD check also shows that Sgt. Muller used his name to run § 87(2)(b)'s information. § 87(2)(b) described the officer that frisked and searched him as a

light-skinned Hispanic male, 5'9" tall, black hair, brown eyes, full beard, stocky build and in his mid to late 30s. He also alleged that the same officer searched his vehicle and refused to provide him with his name and shield number. § 87(2)(g)

§ 87(2)(b) described the officer that frisked and searched § 87(2)(b) as a white male, 5'7" to 5'8" tall, brown hair, medium build and in his 40s. He also stated that at one point during the interaction, he stated, "I want to speak to the sergeant." The same officer that frisked and searched § 87(2)(b) identified himself as the sergeant. § 87(2)(b) also alleged that the sergeant refused to provide his shield number to him. § 87(2)(g)

§ 87(2)(b) stated that while at the 73rd Precinct stationhouse, he stated that he wanted to file a complaint. An officer he described as a dark-skinned black male, stocky build, bald, brown eyes, in his mid-forties and in uniform told him that he had to call the complaint number. According to the Tour 3 Roll Call from the 73rd Precinct on April 22, 2014, PO Brown was identified as the officer working stationhouse security. He stated that his assignment was to secure the stationhouse and take complaint reports. He did not recall interacting with § 87(2)(b) and stated that on the date of the incident, he did not take any complaints. PO Brown's pedigree information also shows that he listed himself as a black male, 5'10" tall, 280 pounds, bald, brown eyes, 42 years old and was in uniform on the date of the incident. According to the Tour 3 Roll Call from the 73rd Precinct on the date of the incident, PO Brown was the only black male working inside the stationhouse. § 87(2)(g)

Allegation A: Abuse of Authority- At the intersection of Pitkin Avenue and Amboy Street in Brooklyn, PO Derek Sambolin refused to provide his name and shield number to § 87(2)(b)

Allegation F: Abuse of Authority- At the intersection of Pitkin Avenue and Amboy Street in Brooklyn, Sgt. Muller refused to provide his name and shield number to § 87(2)(b)

§ 87(2)(b) alleged that upon being told to go back to his vehicle by PO Sambolin, he asked both PO Sambolin and Sgt. Muller for their names and badge numbers. § 87(2)(b) stated that this information was not provided by either officer and he stated that he wanted to speak to the sergeant. Sgt. Muller then identified himself as the sergeant and § 87(2)(b) requested his name. PO Sambolin answered § 87(2)(b)'s request for Sgt. Muller's name and provided a name that sounded like "Mahoney" or "Mofoni." § 87(2)(b) then alleged that as the officers were leaving the location, he stated "I asked for your name and badge." Sgt. Muller then entered the vehicle and stated the same name that sounded like "Mahoney" or "Mofoni." Sgt. Muller stated that at no point at the incident location did any individuals request any of the officers' names and shield numbers. PO Sambolin stated that during the incident, he recalled § 87(2)(b) ask Sgt. Muller for his name and shield number. According to PO Sambolin, Sgt. Muller provided his name and shield number upon request.

§ 87(2)(g)

According to Patrol Guide Procedure 203-09 (Encl. 1A), officers must courteously and clearly state their rank, name, shield number and command, or otherwise provide them, to anyone who requests you to do so.

§ 87(2)(g)

§ 87(2)(g)

Allegation B: Abuse of Authority- At the intersection of Pitkin Avenue and Amboy Street in Brooklyn, PO Derek Sambolin frisked § 87(2)(b)

Allegation C: Abuse of Authority- At the intersection of Pitkin Avenue and Amboy Street in Brooklyn, PO Derek Sambolin searched § 87(2)(b)

Allegation D: Abuse of Authority- At the intersection of Pitkin Avenue and Amboy Street in Brooklyn, Sgt. Christopher Muller frisked § 87(2)(b)

Allegation E: Abuse of Authority- At the intersection of Pitkin Avenue and Amboy Street in Brooklyn, Sgt. Christopher Muller searched § 87(2)(b)

§ 87(2)(b) alleged that upon being pulled over by the officers, PO Sambolin asked him to step out of the vehicle. § 87(2)(b) then turned towards the driver's side door and placed his hands on the top of the car. PO Sambolin then patted over his arms, chest, arm-pits and waist. He then patted over his front two jeans pockets and stuck his hands into § 87(2)(b)'s front jeans pockets for approximately one second. PO Sambolin then patted over § 87(2)(b)'s back jeans pockets and then stuck his hands inside the same two pockets. PO Sambolin also proceeded to frisk along his thighs and down his ankles. The frisk and search lasted less than a minute. § 87(2)(b) alleged that he also observed Sgt. Muller frisking and searching § 87(2)(b) on the other side of the vehicle. During his phone statement, § 87(2)(b) stated that both he and § 87(2)(b) were frisked and searched by PO Sambolin. Both PO Sambolin and Sgt. Muller stated that at no point was a frisk or search conducted of § 87(2)(b) or § 87(2)(b). Sgt. Muller also stated that he and PO Sambolin were the only officers at the incident location.

§ 87(2)(g)

§ 87(2)(g)

Allegation G: Abuse of Authority- At the intersection of Pitkin Avenue and Amboy Street in Brooklyn, PO Derek Sambolin searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(b) alleged that while at the back of the vehicle, he observed PO Sambolin enter through his driver's side door. He observed PO Sambolin search under his front seats and open and look inside of his glove compartment. PO Sambolin then exited the front of the vehicle and entered through the driver's side back door. § 87(2)(b) did not observe where he specifically searched because Sgt. Muller told him to turn around.

Both officers stated that as they approached the vehicle, they observed § 87(2)(b) motion under the seat. PO Sambolin stated he specifically saw the driver's body bend down and his shoulder also motioned downwards. He made this observation from approximately five to ten feet away. PO Sambolin then requested § 87(2)(b)'s information and stated to him that he observed him reach under the seat. § 87(2)(b) complied and stood to the side of PO Sambolin. Both officers corroborated that PO Sambolin entered the vehicle and only looked under the front driver's seat where § 87(2)(b) motioned under the seat. The search only lasted a few seconds and a GPS was the only thing located.

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation H: Abuse of Authority- At the 73rd Precinct stationhouse, PO Paul Brown did not process § 87(2)(b)'s complaint regarding officers.

§ 87(2)(b) alleged after the incident he travelled to the 73rd Precinct stationhouse. § 87(2)(b) spoke to an officer at the desk that was identified via the investigation as PO Brown. § 87(2)(b) stated to PO Brown, "I want to file a complaint but I don't know the names of the officers, how do I go about finding their names?" The officer stated to him, "All you can do is call the complaint number" and pointed to a poster. At no point did the officer offer to take his complaint. § 87(2)(b) then filed the complaint via telephone with the CCRB.

As discussed in the officer identification section, while PO Brown did not recall taking any complaints on the date of the incident or specifically interacting with § 87(2)(b) his pedigree information and his assignment on the date of the incident place him in the stationhouse at the time § 87(2)(b) arrived to file a complaint and as being the officer responsible for taking civilian complaints. The Tour 3 Roll Call from the date of incident also shows that he was the only black male working inside the stationhouse.

According to Patrol Guide Procedure 202-37 (Encl. 2A), the command clerk is responsible for inputting information in the On Line Complaint System (OLCS) and the On Line Aided and Accident Indexes as directed by the desk officer.

It is undisputed that a complaint was not generated for § 87(2)(b) at the 73rd Precinct stationhouse on the date of the incident because his complaint was filed via telephone with the CCRB. § 87(2)(g)

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

§ 87(2)(g) [Redacted]

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date